

Section 7.9

Home Use of Pesticides Not Registered in California

Questions posed at the Roundtable

This document provides guidance on the following questions posed at the Hearing Officer Roundtable:

- Title 3, California Code of Regulations (3CCR) section 6301 (Unregistered Products) states, “(Food and Agricultural Code [FAC]) Section 12995 shall not apply to an individual who personally uses a substance for the purpose of controlling their residence or garden pests, provided no food or feed commodities treated with the substance are sold, distributed, or fed to animals that are sold or distributed for human consumption.” What does this mean?
 - What about “home-brew” pesticides used by home gardeners?
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What is “home use?”

3CCR section 6000 defines “home use” as “use in a household or its immediate environment.”

Aren’t these substances and methods still “pesticidal?”

Occasionally, home gardeners (home users) may make traps or repellents from food products, so-called “natural substances” or other substances typically found in a home. The use of many of these mixtures or techniques are technically “pesticidal” since the intention is to kill, repel, or reduce pests.

3CCR section 6301 provides an exemption from FAC section 12995, regarding use of unregistered 3CCR section 6301 pesticides, that allows home gardeners to employ relatively safe pest reduction or elimination strategies when they use relatively nontoxic substances or methods to control pests on food or commodities they intend to consume. The resulting fruits, vegetables, and plants are not intended to be distributed or sold to the public, but rather, enjoyed by the home gardener and his or her family.

Potentially dangerous “home-brew” substances

There are some potentially dangerous mixtures of “home-brew” pesticides or pesticide/fertilizers: for example, cola, soap, and fertilizer mixtures; or tea of nicotine mixtures. Nicotine is a registered pesticide and its potentially toxic properties should not be ignored.

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Pesticide products exempt from registration – 3CCR §6147

There are some substances (or pesticides) exempt from registration because they are of a nature not likely to cause significant danger, even though they fall under the definition of pesticide and may have once been registered as a pesticide.

The federal government has determined that certain substances (mostly food products) do not pose an unreasonable risk to the public health or the environment and has therefore exempted them from registration requirements. 3CCR section 6147, entitled *Exempted Pesticide Products*, lists these substances. This section applies equally to homeowners, growers, and pest control professionals.

Registration requirements; Unregistered products – FAC §12995

California's pesticide product registration requirements (Article 4 of Chapter 2 of Division 7 of the FAC) apply to persons who intend to sell the products to other persons. A certificate of registration is required before any manufacturer of, distributor of, and dealers in "a pesticide product" offer the product for sale. (FAC section 12811).

Just as it has been determined that some substances do not pose an unreasonable risk to the public health and the environment, it has also been determined that a person using an unregistered pesticide (of any type) for home use, does not pose an unreasonable risk to the public health or the environment and is exempt from registration. This exemption only applies to an individual who personally uses a substance for the purpose of controlling pests in and around his/her residence or garden, provided that:

- No food or feed commodities treated with the substance are sold or distributed to another person or fed to animals that are sold or distributed for human consumption.
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Pesticides “not registered in California”

“Not registered in California” can have three meanings:

1. The pesticide is a federally registered pesticide, but is not registered for use in California.
2. The substance being used as a pesticide is a “natural” substance and is considered benign, thus, exempted from the requirements of registration. 3CCR section 6147 lists pesticide products which are not required to be registered by DPR.
3. The pesticide being used is not federally registered or California registered and is not exempt from Department of Pesticide Regulation (DPR) registration by 3CCR section 6147.

Home use of an unregistered pesticide under any of these definitions may be exempt under 3CCR section 6301.

Home-use pesticide is drifting onto someone else’s property

Despite the fact that a pesticide is exempt from registration, if there is a violation, i.e., if the home user is not exercising due care, the county agricultural commissioner (CAC) may administer a variety of compliance or enforcement options. Before taking any action, the CAC should consider whether the home user’s actions have caused “a hazard or effect.”

Generally, DPR does not advise using the Administrative Civil Penalty process against home users unless it was the only realistic option to change the violator’s behavior or it is the only realistic option available to the CAC. It is likely that a compliance action, such as a Violation Notice, is all that is necessary to ensure that a repeat of the incident does not occur.

If the home user’s pesticide use is of real concern, DPR advises contacting the City or District Attorney before conducting any enforcement action.

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IPM techniques and mixtures

Many of the “home brew” substances or methods employed by home gardeners are called Integrated Pest Management (IPM) techniques. Some common examples that illustrate the use of IPM techniques include: dishwashing soap and water sprayed on garden plants to reduce aphid populations; petroleum jelly spread on bright yellow antifreeze containers to control aphids; cornmeal sprinkled on a lawn to prevent fleas; peanut butter or chocolate sauce as bait to make rodent traps; cedar blocks or shavings in a drawer intended to repel moths; “smelly” deodorant soaps or concoctions intended to repel deer; and saucers of beer to kill snails.

For more information on Integrated Pest Management, see the University of California, Davis Web site at: <<http://www.ipm.ucdavis.edu/>>.

References

- 3CCR section 6147, Registration Exempted Pesticide Products
 - 3CCR section 6301(a), Unregistered Products
 - Enforcement Guidelines, Technical Revision, December 2002
 - FAC section 12995 - Possession or use of unregistered pesticides
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